between man and wife, but this meant that all which both had was a joint capital for use in their domestic economy. When the marriage was dissolved the property returned to the side from which it came. Later, in many districts, this arrangement developed into a real community of goods under various forms. "It was in regard to these adjustments of property rights that the jurists of the Middle Ages did most harm by introducing the Roman law, for it was especially in regard to this matter that the Roman law stood in strongest contrast to the German notions, and the resistance of the German people is to be seen in the numerous local systems of law, which remained in use in most of Germany; unfortunately not everywhere, nor uniformly."[1]

87. Tlie Roman law: its effect on later mores. Throughout the north of Europe, upon conversion to Christianity, tithes were the stumbling-block between the old mores and the new system.[2] The authority for the tithe system came from the Roman system. It was included in the Roman jurisprudence which the church adopted and carried wherever it extended. After the civil code was revived it helped powerfully to make states. This was a work, however, which was hostile to the church. The royal lawyers found in the civil code a system which referred everything in society to the emperor as the origin of power, rights, and honor. They adopted this standpoint for the kings of the new dynastic states and, in the might of the Roman law, they established royal absolutism, which was unfavorable to the church and the feudal nobles. They found their allies in the cities which loved written law, institutions, and defined powers. Stubbs[3] regards the form of the Statute of Westminster (1275) as a proof that the lawyers, who " were at this time getting a firm grasp on the law of England," were introducing the principle that the king could enact by his own authority. The spirit of the Roman law was pitiless to peasants and artisans, that is, to all who were, or were to be made, unfree. The Norman

laws depressed the Saxon ceorl to a slave.[4] In similar manner they came into war with all Teutonic mores which contained popular rights and primary freedom. Stammler[5] denies that the Roman law, in spite of lawyers and ecclesiastics, ever entered into the flesh and blood of the German people. That is to say, it never displaced completely their national mores. The case of the

[1] Stammler, *Stellung der Frauen^* 8.
[2] Wachsmuth, *Bauernkriege,* in Raumer, *Taschenbuch,* V.
[8] *Charters,* 449.
* Stubbs, *History,* II, 453.
[5] *Stellung der Frauen,* 3.